

Stock Raising Homestead Act

There are specific procedures for locatable mineral exploration and development on split estate land. Split estate land is land where the surface was patented under the Homestead Act entries, and the minerals were reserved to the United States under the Stock Raising Homestead Act (SRHA) of 1916.

Public Law 103-23, amendment to the 1916 SRHA, requires anyone wishing to explore land subject to the SRHA for the purpose of staking a mining claim to first file a Notice of Intent to Locate a Mining Claim (NOITL) with the appropriate BLM State Office. BLM carries a form for filing a NOITL on SRHA land, however, a specific form is not required. A nonrefundable filing fee of \$30 must accompany the NOITL.

Claimants must file a NOITL (Form 3830-3) prior to entering SRHA land to explore for minerals, or to locate mining claims. Filing a NOITL segregates the land from all forms of appropriation for 90-days for the party filing the NOITL. A NOITL must contain the following information:

*NOTE: If you own the surface estate of SRHA lands and want to explore or locate a mining claim on the Federally-reserved mineral estate, you do not need to file a NOITL.

Statutory Information

The following **statutory** information must be included with the NOITL:

1. Surface owner name and address;
2. Claimant name and address;
3. Legal description of the land covered by the NOITL. The legal description shall be based on the public land survey or other sufficient description so that the NOITL can be noted to the public land status records;
4. A map of the land subject to mineral exploration; and
5. Dates of when exploration and/or location of claims will begin and end.

The information above is **mandatory** statutory information that is required before the 90-day segregation of the land becomes effective.

If any of the statutory information is missing the NOITL will not be posted to the land status records, or in the public room until all the statutory information is received.

Regulatory Information

The NOITL must include the following **regulatory** information:

1. \$30.00 Service Fee;
2. Proof of surface ownership. A copy of the county records showing who is paying the taxes on the property is sufficient proof of ownership. A certificate of title or proof of title insurance will also be accepted;
3. A copy of the certified mail receipt card proving the surface owner was served a copy of the NOITL;
4. The telephone number of the surface owner, if available. If not available the claimant must submit a letter to BLM, dated and signed, outlining the steps taken to locate the number.
5. The telephone number of the claimant;
6. Total number of acres covered by the NOITL;
7. Brief description of proposed mineral activity; and
8. Map showing access routes.

Land Covered by the NOITL

NOITLs are assigned serial numbers and noted on the Historical Index (HI).

All land covered by a NOITL must be owned by the same person or group of people. In order for one NOITL to be accepted for multiple surface owners, all owners must jointly own the land described in the NOITL.

A separate NOITL is required for different surface owners.

Each claimant is allowed 1280 acres covered by NOITLs per surface owner. The maximum acreage that may be covered by NOITLs for a single claimant is 6400 acres statewide.

Segregation Period

The 90-day segregation period begins the day the NOITL is received by BLM. The segregation period will not begin until all of the statutory requirements are met. The NOITL is noted on the HI during the 90-day segregation period.

The 90-day segregation period ends on the 90th day, even if it falls on a weekend or a holiday.

Exploration & Location of Mining Claims

The claimant must wait 30 days after the date the surface owner signs the certified card to begin exploration and staking claims. The claimant is not allowed to enter the land covered by the NOITL during this 30-day period. The claimant may explore and stake mining claims during the remainder of the 90-day segregation period, approximately 60 days.

Plan of Operation (PoO) & Bonding

After mining claims are staked, a mining claimant or operator may not conduct mineral activities unless the following conditions are met:

- A. Written consent from the surface owner(s); or
- B. An approved plan of operations from BLM.

A plan of operation (PoO) will be filed in the appropriate BLM Field Office pursuant to the standards described at 43 CFR 3809. Within 60 days of its receipt, the BLM Field Office will approve the PoO, or notify the claimant/operator of any deficiencies in the PoO. The 60-day time frame to approve the PoO may be extended for an unspecified amount of time if necessary to comply with other applicable requirements of law.

The State Office will be notified of a PoO if filed within the 90-day segregation period. The 90-day segregation period may be extended by at least 60 days if additional time is required to comply with other applicable requirements of law.

The appropriate BLM Field Office will determine the bond amount, prepare the necessary environmental document and estimated reclamation costs for the PoO.

The operator or mining claimant(s) shall post fees in amounts sufficient to cover tangible losses incurred by the surface owner during operations, and permanent losses that may result if the land are not reclaimed to pre-mining agricultural production levels.

An annual surface use payment is required to be paid to the surface owner(s), based upon fair market value of the land.

Mining Claims Recorded in Connection with a NOITL

- A. The **location date** of the claims must be 30 days after the surface owner signed the certified card and when statutory requirements are met and before the 90-day segregation period expired.
- B. The legal description(s) on the location certificate(s) must be within the legal description given on the NOITL.
- C. The location, recording, and maintenance of mining claims on SRHA land are the same as for other open public domain land.

Pre-Act Mining Claims (Non-Grandfathered)

Claims that were located and recorded with BLM on SRHA land prior to the April 16, 1993, amendment were not completely "grandfathered".

- A. Pre-Act claims do not require BLM intervention if surface owner and claimant have an agreement on mining operations.
- B. Pre-Act operations with a BLM bond outstanding are subject to BLM review, but only if surface owner requests it.
- C. Pre-Act claims with no pre-act operations will need either surface owner consent filed with BLM, or to file a Plan of Operation (Plan) and go through the new approval process for use authorization of a Plan.

The claimant needs to submit a letter to BLM stating that he/she has the consent of the surface owner to operate and that no BLM intervention is necessary. The surface owner must sign this letter. BLM does not need to know the details of the agreement(s).

103d CONGRESS

1st Session

H. R. 239**AN ACT**

To amend the Stock Raising Homestead Act to resolve certain problems regarding subsurface estates, and for other purposes.

HR 239 EH

103d CONGRESS

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H. R. 239**AN ACT**

To amend the Stock Raising Homestead Act to resolve certain problems regarding subsurface estates, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MINING CLAIMS ON STOCK RAISING HOMESTEAD ACT LANDS.

(a) MINERAL ENTRY UNDER THE STOCK RAISING HOMESTEAD ACT- Section 9 of the Act of December 29, 1916, entitled 'An Act to provide for stock-raising homesteads, and for other purposes' (43 U.S.C. 29), is amended by adding the following at the end thereof:

`(b) EXPLORATION; LOCATION OF MINING CLAIMS; NOTICES-

`(1) IN GENERAL- (A) Notwithstanding subsection (a) and any other provision of law to the contrary, after the effective date of this subsection no person other than the surface owner may enter lands subject to this Act to explore for, or to locate, a mining claim on such lands without--

`(i) filing a notice of intention to locate a mining claim pursuant to paragraph (2); and

`(ii) providing notice to the surface owner pursuant to paragraph (3).

` (B) Any person who has complied with the requirements referred to in subparagraph (A) may, during the authorized exploration period, in order to locate a mining claim, enter lands subject to this Act to undertake mineral activities related to exploration that cause no more than a minimal disturbance of surface resources and do not involve the use of mechanized earthmoving equipment, explosives, the construction of roads, drill pads, or the use of toxic or hazardous materials.

` (C) The authorized exploration period referred to in subparagraph (B) shall begin 30 days after notice is provided under paragraph (3) with respect to lands subject to such notice and shall end with the expiration of the 90-day period referred to in paragraph (2)(A) or any extension provided under paragraph (2).

` (2) NOTICE OF INTENTION TO LOCATE A MINING CLAIM- Any person seeking to locate a mining claim on lands subject to this Act in order to engage in the mineral activities relating to exploration referred to under paragraph (1)(B) shall file with the Secretary of the Interior a notice of intention to locate a claim on the lands concerned. The notice shall be in such form as the Secretary shall prescribe. The notice shall contain the name and mailing address of the person filing the notice and a legal description of the lands to which the notice applies. The legal description shall be based on the public land survey or on such other description as is sufficient to permit the Secretary to record the notice on the land status records of the Secretary. Whenever any person has filed a notice under this paragraph with respect to any lands, during the 90-day period following the date of such filing, or any extension thereof pursuant to this paragraph, no other person (including the surface owner) may--

` (A) file such a notice with respect to any portions of such lands;

` (B) explore for minerals or locate a mining claim on any portion of such lands; or

` (C) file an application to acquire any interest in any portion of such lands pursuant to section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

If, within such 90-day period, the person who filed a notice under this paragraph files a plan of operations with the Secretary pursuant to subsection (f), such 90-day period shall be extended until the approval or disapproval of the plan by the Secretary pursuant to subsection (f).

` (3) NOTICE TO SURFACE OWNER- Any person who has filed a notice of intention to locate a mining claim under paragraph (2) for any lands subject to this Act shall provide written notice of such filing, by registered or certified mail with return receipt, to the surface owner (as

evidenced by local tax records) of the lands covered by the notice under paragraph (2). The notice shall be provided at least 30 days before entering such lands and shall contain each of the following:

` (A) A brief description of the proposed mineral activities.

` (B) A map and legal description of the lands to be subject to mineral exploration.

` (C) The name, address and phone number of the person managing such activities.

` (D) A statement of the dates on which such activities will take place.

` (4) ACREAGE LIMITATIONS- The total acreage covered at any time by notices of intention to locate a mining claim under paragraph (2) filed by any person and by affiliates of such person may not exceed 6,400 acres of lands subject to this Act in any one State and 1,280 acres of such lands for a single surface owner. For purposes of this paragraph, the term 'affiliate' means, with respect to any person, any other person which controls, is controlled by, or is under common control with, such person.

` (c) CONSENT- Notwithstanding subsection (a) and any other provision of law, after the effective date of this subsection no person may engage in the conduct of mineral activities (other than those relating to exploration referred to in subsection (b)(1)(B)) on a mining claim located on lands subject to this Act without the written consent of the surface owner thereof unless the Secretary has authorized the conduct of such activities under subsection (d).

` (d) AUTHORIZED MINERAL ACTIVITIES- The Secretary shall authorize a person to conduct mineral activities (other than those relating to exploration referred to in subsection (b)(1)(B)) on lands subject to this Act without the consent of the surface owner thereof if such person complies with the requirements of subsections (e) and (f).

` (e) BOND- (1) Before the Secretary may authorize any person to conduct mineral activities the Secretary shall require such person to post a bond or other financial guarantee in an amount to insure the completion of reclamation pursuant to this Act. Such bond or other financial guarantee shall ensure--

` (A) payment to the surface owner, after the completion of such mineral activities and reclamation, compensation for any permanent damages to crops and tangible improvements of the surface owner that resulted from mineral activities; and

` (B) payment to the surface owner of compensation for any permanent loss of income of the surface owner due to loss or impairment of grazing, or other uses of the land by the surface owner to the extent that reclamation required by the plan of operations would not permit such uses to continue at the level existing prior to the commencement of mineral activities.

` (2) In determining the bond amount to cover permanent loss of income under paragraph (1)(B), the Secretary shall consider, where appropriate, the potential loss of value due to the estimated permanent reduction in utilization of the land.

` (f) PLAN OR OPERATIONS- (1) Before the Secretary may authorize any person to conduct mineral activities on lands subject to this Act, the Secretary shall require such person to submit a plan of operations. Such plan shall include procedures for--

` (A) the minimization of damages to crops and tangible improvements of the surface owner;

` (B) the minimization of disruption to grazing or other uses of the land by the surface owner; and

` (C) payment of a fee for the use of surface during mineral activities equivalent to the loss of income to the ranch operation as established pursuant to subsection (g).

` (2) The Secretary shall provide a copy of the proposed plan of operations to the surface owner at least 45 days prior to the date the Secretary makes a determination as to whether such plan complies with the requirements of this subsection. During such 45-day period the surface owner may submit comments and recommend modifications to the proposed plan of operations to the Secretary.

` (3)(A) The Secretary shall, within 60 days of receipt of the plan, approve the plan of operations if it complies with the requirements of this Act, including each of the following:

` (i) The proposed plan of operations is complete and accurate.

` (ii) The person submitting the proposed plan of operations has demonstrated that all other applicable Federal and State requirements have been met.

` (B) The Secretary shall notify the person submitting a plan of operations of any modifications to such plan required to bring it into compliance with the requirements of this Act. If the person submitting the plan agrees to modify such plan in a manner acceptable to the Secretary, the Secretary shall

approve the plan as modified. In the event no agreement can be reached on the modifications to the plan which, in the opinion of the Secretary, will bring such plan into compliance with the requirements of this Act, then the Secretary shall disapprove the plan and notify both the surface owner and the person submitting the plan of the decision.

` (C) The 60-day period referred to in subparagraph (A) may be extended by the Secretary where additional time is required to comply with other applicable requirements of law.

` (D) The Secretary shall suspend or revoke a plan of operation whenever the Secretary determines, on the Secretary's own motion or on a motion made by the surface owner, that the person conducting mineral activities is in substantial noncompliance with the terms and conditions of an approved plan of operations and has failed to remedy a violation after notice from the Secretary within the time required by the Secretary.

` (4) Final approval of a plan of operations under this subsection shall be conditioned upon compliance with subsections (e) and (g).

` (g) FEE- The fee referred to in subsection (f)(1) shall be--

` (1) paid to the surface owner by the person submitting the plan of operations;

` (2) paid in advance of any mineral activities or at such other time or times as may be agreed to by the surface owner and the person conducting such activities; and

` (3) established by the Secretary taking into account the acreage involved and the degree of potential disruption to existing surface uses during mineral activities (including the loss of income to the surface owner and such surface owner's operations due to the loss or impairment of existing surface uses for the duration of the mineral activities), except that such fee shall not exceed the fair market value for the surface of the land.

` (h) RECLAMATION- Lands affected by mineral activities under a plan of operations approved pursuant to subsection (f)(3) shall be reclaimed, to the maximum extent practicable, to a condition capable of supporting the uses to which such lands were capable of supporting prior to surface disturbance. Reclamation shall proceed as contemporaneously as practicable with the conduct of mineral activities.

` (i) STATE LAW- (1) Nothing in this Act shall be construed as affecting any reclamation, bonding, inspection, enforcement, air or water quality standard or requirement of any State law or regulation which may be applicable to

mineral activities on lands subject to this Act to the extent that such law or regulation is not inconsistent with this title.

` (2) Nothing in this Act shall be construed as affecting in any way the right of any person to enforce or protect, under applicable law, the interest of such person in water resources affected by mineral activities.

` (j) INSPECTIONS- Should any surface owner of land subject to this Act have reason to believe that they are or may be adversely affected by mineral activities due to any violation of the terms and conditions of a plan of operations approved under subsection (f), such surface owner may request an inspection of such lands. The Secretary shall determine within 10 days of the receipt of the request whether the request states a reason to believe that a violation exists, except in the event the surface owner alleges and provides reason to believe that an imminent danger exists, the 10-day period shall be waived and the inspection conducted immediately. When an inspection is conducted under this paragraph, the Secretary shall notify the surface owner and such surface owner shall be allowed to accompany the inspector on the inspection.

` (k) DAMAGES FOR FAILURE TO COMPLY- (1) Whenever the surface owner of any land subject to this Act has suffered any permanent damages to crops or tangible improvements of the surface owner, or any permanent loss of income due to loss or impairment of grazing, or other uses of the land by the surface owner, if such damages or loss result from--

` (A) any mineral activity undertaken without the consent of the surface owner under subsection (c) or an authorization by the Secretary under subsection (d); or

` (B) the failure of the person conducting mineral activities to remedy to the satisfaction of the Secretary any substantial noncompliance with the terms and conditions of a plan under subsection (f);

the surface owner may bring an action in the appropriate United States district court for, and the court may award, double damages plus costs for willful misconduct or gross negligence.

` (2) The surface owner of any land subject to this Act may also bring an action in the appropriate United States district court for double damages plus costs for willful misconduct or gross negligence against any person undertaking any mineral activities on lands subject to this Act in violation of any requirement of subsection (b).

` (3) Any double damages plus costs awarded by the court under this subsection shall be reduced by the amount of any compensation which the surface owner has received (or is eligible to receive) pursuant to the bond or financial guarantee required under subsection (e).

`(l) PAYMENT OF FINANCIAL GUARANTEE- The surface owner of any land subject to this Act may petition the Secretary for payment of all or any portion of a bond or other financial guarantee required under subsection (e) as compensation for any permanent damages to crops and tangible improvements of the surface owner, or any permanent loss of income due to loss or impairment of grazing, or other uses of the land by the surface owner. Pursuant to such a petition, the Secretary may use such bond or other guarantee to provide compensation to the surface owner for such damages and to insure the required reclamation.

`(m) BOND RELEASE- The Secretary shall release the bond or other financial guarantee required under subsection (e) upon the successful completion of all requirements pursuant to a plan of operations approved under subsection (f).

`(n) CONVEYANCE TO SURFACE OWNER- The Secretary shall take such actions as may be necessary to simplify the procedures which must be complied with by surface owners of lands subject to this Act who apply to the Secretary to obtain title to interests in such lands owned by the United States.

`(o) DEFINITIONS- For the purposes of subsections (b) through (n)--

`(1) The term `mineral activities' means any activity for, related to or incidental to mineral exploration, mining, and beneficiation activities for any locatable mineral on a mining claim. When used with respect to this term--

`(A) the term `exploration' means those techniques employed to locate the presence of a locatable mineral deposit and to establish its nature, position, size, shape, grade and value;

`(B) the term `mining' means the processes employed for the extraction of a locatable mineral from the earth; and

`(C) the term `beneficiation' means the crushing and grinding of locatable mineral ore and such processes are employed to free the mineral from the other constituents, including but not necessarily limited to, physical and chemical separation techniques.

`(2) The term `mining claim' means a claim located under the general mining laws of the United States (which generally comprise 30 U.S.C. chapters 2, 12A, and 16, and sections 161 and 162) subject to the terms and conditions of subsections (b) through (p) of this section.

`(3) The term `tangible improvements' includes agricultural, residential and commercial improvements, including improvements made by residential subdividers.

`(p) MINERALS COVERED- Subsections (b) through (o) of this section apply only to minerals not subject to disposition under--

`(1) the Mineral Leasing Act (30 U.S.C. 181 and following);

`(2) the Geothermal Steam Act of 1970 (30 U.S.C. 100 and following);
or

`(3) the Act of July 31, 1947, commonly known as the Materials Act of 1947 (30 U.S.C. 601 and following).'

(b) TECHNICAL CONFORMING AMENDMENT- Section 9 of the Act of December 29, 1916, entitled 'An Act to provide for stock-raising homesteads, and for other purposes' (43 U.S.C. 299) is amended by inserting
'(a) GENERAL PROVISIONS- ' before the words 'That all entries made'.

(c) EFFECTIVE DATE- The amendments made by this Act shall take effect 180 days after the date of enactment.

(d) REGULATIONS- The Secretary of the Interior shall issue final regulations to implement the amendments made by this Act not later than the effective date of this Act. Failure to promulgate these regulations by reason of any appeal or judicial review shall not delay the effective date as specified in paragraph (c).

SEC. 2. REPORT TO CONGRESS ON FOREIGN MINERAL INTEREST.

(a) REPORT- The Secretary of the Interior is directed to submit a report to the Congress within 2 years after the date of enactment of this Act on the acquisition of mineral interests made after the date of enactment of this Act by foreign firms on lands subject to the Act of December 29, 1916, entitled 'An Act to provide for stock-raising homesteads, and for other purposes' (43 U.S.C. 299).

(b) DEFINITION- For purposes of this section, the term 'foreign firm' means a business entity that conducts business operations in the United States and is 51 percent or more owned and controlled by a foreign person or entity.

Passed the House of Representatives March 29, 1993.

Attest:

Clerk.

END

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